

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

GILBERT ALEXANDER ESPARZA

Plaintiff,

vs.

GALVESTON COLLEGE, VERA LEWIS-
JASPER, BRIAN AYRES, DANIEL LIMMER
AND DANIEL FINK

Defendants.

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Civil Action No. 3:21-cv-176

DEFENDANTS' NOTICE OF REMOVAL

Defendants Galveston College, Vera Lewis-Jasper, Brian Ayres, Daniel Limmer, and Daniel Fink (collectively, the “Defendants”) files their Notice of Removal, as follows:

I.

PROCEDURAL HISTORY

1. Plaintiff Gilbert Alexander Esparza is a former student of Galveston College.
2. On June 8, 2021, Plaintiff filed his Original Petition (the “Petition”) in Cause No. 21-CV-0801, *Gilbert Alexander Esparza v. Galveston College, et.al.*; In the 56th Judicial District Court of Galveston County, Texas (the “State Court Lawsuit”).
3. Plaintiff served Defendant Brian Ayres with the State Court Lawsuit on June 10, 2021. The remaining Defendants were served during the week of June 28, 2021.
4. The Petition in the State Court Lawsuit asserts causes of action arising under the Family Educational Rights and Privacy Act (FERPA), a federal statute. More specifically, the Petition alleges that Defendants violated FERPA by improperly allowing access to his educational records and failing to “keep secret and protect the educational files of Plaintiff thus violating his civil rights.” *See* Pl.’s Org. Pet., pp. 2–3.

II.
GROUND FOR REMOVAL

5. Because Plaintiff alleges violations of federal law in his Petition, the Defendants remove this case on the basis of federal question jurisdiction in accordance with 28 U.S.C. §§ 1331, 1441(a), and 1446. All Defendants are represented by the undersigned attorneys, and all Defendants hereby join in and consent to the removal of this case to federal court.

6. This Notice of Removal is timely filed as required by 28 U.S.C. § 1446(b) because it is being filed less than 30 days after service of the State Court Lawsuit.

7. The Defendants are also entitled to remove any claims in the State Court Lawsuit arising under state law because, in any civil action in which the district court has original jurisdiction, it also has supplemental jurisdiction over “all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy[.]” 28 U.S.C. § 1367(a). To the extent that any of Plaintiff’s claims for relief arise under state law, they are based on the same nucleus of facts that form the basis of his federal claims. Consequently, the claims are so related and identical that they form part of the same case or controversy, and the exercise of supplemental jurisdiction under § 1367 is proper.

8. Venue is proper in the Southern District of Texas under 28 U.S.C. § 1441(a) because the state court when the suit is pending is located in this District.

9. The Defendants will promptly file a copy of this Notice of Removal, as an attachment to a Notice of Filing of Notice of Removal, with the clerk of the state court where the action has been pending.

III.
STATE COURT FILINGS

10. In accordance with 28 U.S.C. § 1446(a) and Local Rule 81, copies of the following items are attached to this Notice: (1) all executed process in the case, if any; (2) pleadings asserting

causes of action and all answers to such pleadings; (3) all orders signed by the state judge, if any; (4) the docket sheet; (5) an index of matters being filed; and (6) a list of all counsel of record, including addresses, telephone numbers, and parties represented. *See* Appendix.

IV.
CONCLUSION AND PRAYER

For these reasons, Defendants Galveston College, Vera Lewis-Jasper, Brian Ayres, Daniel Limmer, and Daniel Fink request that this matter be removed to federal court and pray that they be awarded all such other and further relief to which they have shown themselves entitled.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

On July 8, 2021, I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Southern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel and/or pro se parties of record electronically using the CM/ECF filing system or by any other manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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/s/ James E. Byrom

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